



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



294050

REPLY TO THE ATTENTION OF

C-14J

September 4, 2003

Via Certified Mail
Return Receipt Requested

Christopher J. Kearney
Secretary and General Counsel
SPX Corporation
13515 Ballantyne Corporate Place
Charlotte, NC 28277

Re: Request for Information Pursuant to Section 104(e) of CERCLA
for Allied Paper/Portage Creek/Kalamazoo River Superfund Site in
Kalamazoo and Allegan Counties, Michigan

Dear Mr. Kearney:

As you may know, the U.S. Environmental Protection Agency ("U.S. EPA" or the "Agency") recently assumed the enforcement lead for various operable units of the Allied Paper/Portage Creek/Kalamazoo River Superfund Site (the "Site"), which is located in Kalamazoo and Allegan Counties, Michigan. The Site includes six paper mill properties, five paper residual disposal areas, approximately 80 miles of the Kalamazoo River from Morrow Lake Dam downstream to Lake Michigan, and the floodplains and wetlands adjacent to the River.

The Agency has begun to supplement the investigation into the nature, extent and sources of contamination in the Kalamazoo River conducted to date by the Michigan Department of Environmental Quality. The primary contaminants of concern at the Site are polychlorinated biphenyls ("PCBs"). U.S. EPA understands that in 1998 SPX Corporation ("SPX") merged with General Signal Corporation, which owned and operated a manufacturing facility in Galesburg, Michigan that is currently owned and operated by Benteler Automotive Corporation, and that PCBs were detected in the sediments of a drainage ditch leading from the Galesburg facility to Morrow Lake. U.S. EPA is currently investigating whether contaminants in Morrow Lake are a continuing source of PCBs to the Kalamazoo River. Accordingly, U.S. EPA believes that SPX may have information relevant to this investigation.

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 *et seq.* ("CERCLA") gives U.S. EPA the authority to assess contaminated sites, to determine the threats to human health and the environment posed by contaminated sites, and to clean up those sites.

Under § 104(e)(2) of CERCLA, U.S. EPA has authority to gather information and to require persons to furnish information or documents relating to:

A. The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;

B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility;

C. The ability of responsible parties to pay the cost of the clean up.

U.S. EPA asks that SPX provide information and documents relating to contamination at the Site. The relevant time period is from 1929, the year PCBs were first introduced into the environment, until the present. SPX must respond completely and truthfully to this Information Request within 60 days of its receipt of this letter. Instructions for completion of a response are in Attachment 2; definitions of terms used in this Information Request are in Attachment 3. Unless otherwise defined, all terms used in the Information Request have the same meaning ascribed to them in CERCLA or the National Oil and Hazardous Substances Pollution Contingency Plan.

SPX may consider some of the requested information to be confidential. If SPX wishes to assert a privilege of business confidentiality, it must nevertheless respond to the question and advise U.S. EPA that it requests that the Agency treat the response as confidential business information. Directions regarding how to assert a claim of business confidentiality are contained in Attachment 4.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question included in this Information Request within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to § 104(e)(5) of CERCLA. Failure to respond and failure to justify the non-response can result in similar penalties under this Section. Further, § 104(e)(5) authorizes the United States to seek penalties from a federal court of up to twenty-five thousand dollars (\$25,000) for each day of continued non-compliance. U.S. EPA considers non-compliance to be not only failure to respond to the Information Request, but also failure to respond completely and truthfully to each question in the Information Request.

The provision of false, fictitious or fraudulent statements or misrepresentations may subject SPX to criminal penalties of up to ten thousand dollars (\$10,000) or up to five (5) years imprisonment, or both, under 18 U.S.C. § 1001.

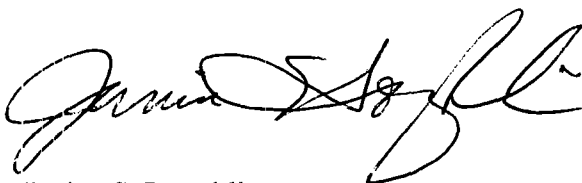
U.S. EPA has the authority to use the information requested in an administrative, civil, or criminal action.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 *et seq.*

Return your response to U.S. EPA within 60 days of your receipt of this Information Request.
Mail your response to:

Eileen L. Furey
Associate Regional Counsel
U.S. Environmental Protection Agency C-14J
77 W. Jackson Blvd.
Chicago, IL 60604

We appreciate your effort to respond fully and promptly to this Information Request. If you have any questions about this Information Request, please call either Eileen Furey at (312) 886-7950 or Shari Kolak, the Remedial Project Manager for the Site, at (312) 886-6151.



Janice S. Loughlin
Section Chief
Office of Regional Counsel
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Attachment:

1. Requests
2. Instructions
3. Definitions
4. Confidential Business Information

cc: Shari Kolak, SR-6J
Marsha Adams, SR-6J
Eileen Furey, C-14J
William Messenger, S-6J
Renita Ford, U.S. DOJ
Mary-Lynn Taylor, U.S. DOI

Attachment 1

INFORMATION REQUESTS

1. Identify all persons consulted in the preparation of your responses to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of your responses to these Information Requests, and provide copies of all such documents. If, in lieu of or along with a textual response to any specific Request, you refer to a document that you believe contains information responsive to that Request, you must identify the specific location (page number, paragraph number) in the document where responsive information can be located.
3. If you have reason to believe that there may be any person able to provide a more detailed or complete response to any Information Request, or who may be able to provide additional responsive documents, identify any and all such persons.
4. Identify:
 - (a) the address of the facility;
 - (b) past and present EPA ID numbers, RCRA numbers, and NPDES numbers for the facility; and
 - (c) the current owner of the facility.
5. Identify all prior owners and operators of the facility, and their dates of ownership and/or operation.
6. Provide copies of all local, state, and federal environmental permits ever granted for the facility or any part thereof (*e.g.*, RCRA permits, NPDES permits, etc.).
7. Identify and describe all types of monitoring reports, monitoring data, and documentation sent to or received by federal or state regulatory authorities regarding any materials containing hazardous substances used, generated, stored, treated or disposed at or from the facility.
8. Identify and describe the nature of all past and current operations and production processes at the facility. Identify, if available, all current and previous SIC codes associated with the facility.
9. Identify each product produced at the facility. Further identify the mass quantity of each product produced on an annual basis.

10. Identify and describe any and all activities or efforts to take production facilities out of operation, and include the dates of each such activity or effort.
11. Identify and provide any data, estimates, analyses or other information regarding any material used in the production processes at the facility that contained or may have contained PCBs. To the extent available, provide all such data, estimates, analyses or other information on an annual basis.
12. Identify any data, estimates, analyses or other information regarding the concentration of PCBs in any material used in the production processes at the facility. To the extent available, provide all such data, estimates, analyses or other information on an annual basis.
13. To the extent not already provided in response to Request #11, provide the following information:
 - (a) the type and quantity, on an annual basis, of any oils or other lubricants used at the facility that are known or suspected to have contained PCBs;
 - (b) the number, handling and disposition of all transformers and conductors at the facility; and
 - (c) data, analysis and other information regarding leaks, discharges or other releases from any transformer, conductor or other equipment using oils or lubricants at the facility.
14. To the extent not already provided in response to Request #12, identify any data, estimates, analyses or other information regarding the concentration of PCBs in the materials identified in your response to Request #13.
15. Describe the procedures used by you or anyone on your behalf to test PCB concentrations in the materials identified in your response to Requests #11 and #13, above. Include in your response test methods and dates.
16. Describe the procedures followed by you, or anyone on your behalf, to prevent, mitigate or address the release or threat of release of any material identified in your response to Requests #11 and #13, above.
17. Provide a figure delineating the groundwater flow direction on your property.
18. Identify the depth(s) to groundwater at your property.
19. Identify the type and amount of all raw process water sources used in the production processes at the facility. To the extent available, provide such information by month of operation.

20. Identify and describe all information about the PCB content of the raw process water used in each production process at the facility. To the extent available, provide such information by month of operation.
21. Identify and describe what type of treatment, if any, was used to treat raw process water prior to its use in each production process at the facility.
22. For each production process at the facility, identify and describe each waste stream from its creation to final disposition.
23. Identify any data, estimates, analyses or other information about the presence of PCBs in each waste stream created at the facility. To the extent available, provide such information on an annual basis.
24. Identify any data, estimates, analyses or other information about the concentration of PCBs in each waste stream created at the facility. To the extent available, provide such information on an annual basis.
25. Describe the procedures used by you, your predecessor(s), or anyone on behalf of you or a predecessor, to test the PCB concentration in each waste produced at, or at each waste handling process of, the facility. Include in your response test methods, media tested, and dates.
26. Identify each off-Site location at which wastes from the facility that contained or potentially contained PCBs were disposed. Further identify the dates of each such off-Site disposal, and the nature, quantity and PCB concentration of any such wastes.
27. Identify and describe in detail each area of the facility used by you or any predecessor for the storage, treatment or disposal of any waste generated at the facility. Include in the description of each area information concerning the nature and volume of the waste(s) stored, treated or disposed there. To the extent available, provide such information on an annual basis.
28. For each area of the facility identified in response to Request #27,
 - (a) identify the PCB concentration of any wastes stored, treated or disposed there. To the extent available, provide such information by month of operation; and
 - (b) describe the procedures and measures taken by you, or anyone on your behalf, to prevent, mitigate or address the release or threat of release of PCBs or other hazardous materials.
29. If any area identified in your response to Request #27 is no longer used by you to store, treat or dispose of wastes, describe in detail the current condition of the area. Further

describe and provide data, estimates, analyses or other information regarding:

- (a) measures taken by you, or anyone on your behalf, to treat or dispose of any wastes previously stored, treated and disposed in each such area;
- (b) any residual wastes remaining in each such area;
- (c) measures taken by you, or anyone on your behalf, to prevent, mitigate or address the release or threat of release of the wastes previously stored, treated or disposed of in each area.

- 30. Provide a figure drawn approximately to scale depicting any area of the facility used by you or a predecessor to store, treat or dispose of any waste generated at the facility. Include the location of the Kalamazoo River, tributaries of the Kalamazoo River, and Morrow Lake in your figure.
- 31. For each area of the facility identified in response to Request # 27, identify any data, estimates, analyses or other information regarding the nature and quantity of hazardous substances, including PCBs, released or threatened to be released from each such area. To the greatest extent possible, provide such information on an annual basis.
- 32. For each area of the facility identified in response to Request # 27, identify any data, estimates, analyses or other information regarding the release, or threat of release, of hazardous substances, including PCBs, to the Kalamazoo River, any tributary of the Kalamazoo River, Morrow Lake or any other area of the Site. To the greatest extent possible, provide such information on an annual basis.
- 33. Identify any data, estimates, analyses or other information about the history of flooding from the Kalamazoo River, any tributary of the Kalamazoo River, or Morrow Lake at the facility. Further, identify any data, estimates, analyses or other information about any infiltration of water, or threat of infiltration of water, from the Kalamazoo River, any tributary of the Kalamazoo River, or Morrow Lake into the areas identified in your response to Request # 27.
- 34. To the extent not provided in your response to Request #22, describe each wastewater stream, waste oil stream, and wastewater/waste oil mixture stream at the facility, from its creation in the production process to final discharge point. In your response include a complete description of the fate of any wastewater stream, waste oil stream, and wastewater/waste oil mixture stream produced at the facility (e.g. on-site treatment, discharge to a POTW, discharge to a storm sewer outfall, direct discharge to a tributary of the Kalamazoo River, indirect discharge to Morrow Lake).
- 35. To the extent not provided in response to Requests #22 and #34, identify the amount of all (a) wastewater, (b) waste oil, and (c) wastewater/waste oil mixture produced, on a

monthly basis, from each production process at the facility.

36. To the extent not provided in response to Requests #23 and #24, identify any data, estimates, analyses or other information about the presence and/or concentration of PCBs in the wastewater, waste oil and wastewater/waste oil mixture produced from each production process at the facility. To the extent available, provide such information on a monthly basis.
37. Identify any data, estimates, analyses or other information regarding the effectiveness of the treatment system(s) at the facility, if any, to remove PCBs from each wastewater stream, waste oil stream and wastewater/waste oil mixture stream at the facility.
38. Identify any data, estimates, analyses or other information regarding procedures and measures taken by you, or by anyone on your behalf, to prevent, mitigate or address the release or threat of release of PCBs from wastewater, waste oils, or wastewater/waste oil mixtures to the Kalamazoo River, tributaries of the Kalamazoo River, or Morrow Lake.
39. For any POTW identified in response to Request #34, provide on a monthly basis all information regarding the amount of wastewater, waste oil, and wastewater/waste oil mixture discharged to the POTW, the concentration of PCBs in the wastewater, waste oil and wastewater/waste oil mixtures discharged to the POTW from the facility and, to the extent such information is available, the PCB concentration in the effluent from the POTW.
40. Identify each pipe, conduit, storm sewer, sewer line or other outfall that, directly or indirectly, terminates in Morrow Lake, the Kalamazoo River or its tributaries (past or present), into which treated, untreated or bypassed wastewater, waste oil, or any other waste (including wastewater/waste oil mixtures), from the facility was discharged. Include a figure identifying the source and location of each pipe, conduit, storm sewer, sewer line or other outfall.
41. For each pipe, conduit, storm sewer, sewer line or other outfall identified in your response to Request #40, identify dates of use and each outfall's source at the facility. Further provide, on a monthly basis, the volume of wastewater, waste oil or other waste (including wastewater/waste oil mixtures) discharged from the facility into each pipe, conduit, storm sewer, sewer line or other outfall.
42. For each pipe, conduit, storm sewer, sewer line or other outfall identified in response to Request #40, identify all influent and effluent quality data. Include, to the extent such information is available, the PCB concentration of all influent and effluent, on a monthly basis.
43. For each pipe, conduit, storm sewer, sewer line or other outfall identified in response to Request #40, identify all bypasses or spills into Morrow Lake, the Kalamazoo River or its tributaries.

44. Identify any data, estimates, analyses or other information regarding the mass quantity of PCBs disposed into Morrow Lake, the Kalamazoo River, or any tributary of the Kalamazoo River, as a result of wastewater, waste oil or wastewater/waste oil discharges from the production processes at the facility. To the extent available, provide such information on an annual basis.
45. Identify any data, analyses or other information regarding the nature and quantity of hazardous substances, including PCBs, in the sediments, soil, groundwater and surface water at the facility. Identify the concentration levels of PCBs for all samples collected at the facility or at any property abutting the facility.
46. Provide information regarding any environmental response activities involving or potentially involving PCBs or PCB-containing materials conducted at the facility, at Morrow Lake or on the Kalamazoo River, its tributaries, or other abutting property, at your direction or under your control. Indicate the date(s) on which such response activity was performed, what work was performed, the expenses incurred, the results of the response activity and, if it has not concluded, when the environmental response is expected to conclude.
47. Identify all persons who you believe may have knowledge or information about the generation, transportation, treatment, disposal, release or other handling of waste materials, including hazardous substances, at the facility.
48. Have you incurred any costs associated with the investigation, remediation or other action to address contamination at the Site or any portion thereof? If yes, identify all costs incurred by you through the date of this Information Request.
49. Identify any data, estimates, analyses or other information regarding the relative contributions of PCBs to Lake Allegan by "facilities," as that term is defined in CERCLA.

Attachment 2

INSTRUCTIONS

1. Precede each answer with the number of the question to which it corresponds.
2. In answering each question, identify all persons and contributing sources of information.
3. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
4. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
5. For any document submitted in response to a question, indicate the number of the question to which it responds.
6. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
7. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information,

including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

8. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
9. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Attachment 4.

Attachment 3

Definitions

1. The term ***you*** refers to SPX Corporation, the successor in interest to General Signal Corporation, which previously owned and operated a manufacturing facility at 9000 E. Michigan Avenue in Galesburg, Michigan. The term further refers to the officers, directors and employees of SPX Corporation, its subsidiaries, divisions, facilities, and their officers, directors and employees.
2. The term ***facility*** means all property or properties previously or presently owned or operated by SPX Corporation, or its predecessor General Signal Corporation, between 1929 and the present, and from which process or non-process wastes were released (or threatened to be released) into Morrow Lake, the Kalamazoo River, any of its tributaries, its floodplains or floodplain soils.
2. The term ***person*** as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
4. ***The Site*** referenced in these documents shall mean the Allied Paper/Portage Creek/Kalamazoo River Superfund Site located in Kalamazoo and Allegan Counties, Michigan. Information about the nature and extent of contamination at the Site can be found at www.epa.gov/region5/sites/kalproject.
4. The term ***hazardous substance*** shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
7. The term ***pollutant or contaminant*** shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
8. The term ***release*** shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
9. The term ***identify*** means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

10. The term ***identify*** means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

11. The term ***identify*** means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressee and/or recipient, and the substance or the subject matter.

12. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300 or 40 C.F.R. Part 260-280, in which case, the statutory or regulatory definitions shall apply.

Attachment 4

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information that U.S. EPA is requesting to be confidential. You cannot withhold information or records upon that basis. The regulations at 40 C.F.R. Part 2, Section 200 *et seq.* require that the U.S. EPA afford you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (*See* 41 Fed Reg. 36902 *et seq.* (September 1, 1976); 43 Fed. Reg. 4000 *et seq.* (December 18, 1985).) If no such claim accompanies the information when U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of CERCLA, because, as stated in Section 104(e)(7)(ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish U.S. EPA to treat the information or record as "confidential," you must advise U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, *e.g.*, until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether U.S. EPA or other federal agency has made a pertinent determination on the confidentiality of the information or document. If an agency has made such a determination,

enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;

6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(I). If you make this assertion, explain how the disclosure would tend to lessen the ability of U.S. EPA to obtain similar information in the future;

7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.

Kalamazoo To-Do List 9/3/03

- 1) Identification of PRPs for Morrow Lake and upstream thereof (i.e. review 104(e) responses and send out a few more 104(e) information requests)
- 2) Evaluate whether a de minimis settlement is possible with those parties with minimal contributions of hazardous substances to the site, especially the city-owned POTWs (publicly-owned treatment works)
- 3) Review materials from Eaton and Arvin Meritor in response to 104(e) – do they need to submit more in response to the information request
- 4) Finalize a list of PRPs who will get special notice (need to review all 104(e) responses)
- 5) Draft Special Notice letter for RI/FS negotiations
- 6) Draft RI/FS AOC (attachment to special notice)
- 7) Is the workplan for the RI/FS AOC ready to go? Check with FIELDS/Shari.
- 8) Delisting petition from Georgia-Pacific for a portion of its facility.
- 9) Review new FS for Plainwell and Otsego City impoundments (Hold off on this since it may be changing.)
- 10) File cleanup/rearrangement.